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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,653	02/23/2004	Jack Bitterly	650003.14769	2690

7590 05/15/2007
KLEINBERG & LERNER, LLP
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2049 Century Park East, Suite 1080
Los Angeles, CA 90067

EXAMINER

MANOHARAN, VIRGINIA

ART UNIT	PAPER NUMBER
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1764

MAIL DATE	DELIVERY MODE
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05/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,653

Applicant(s)

BITTERLY ET AL.

Examiner

Virginia Manoharan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/23/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicants' claim for the benefit of a prior-filed application under 35 U.S.C. under 35 U.S.C. 120. Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows: That this application is a divisional of application # 09/618,337 (status-updated) must be inserted in the beginning of page 1 of the specification.

The abstract of the disclosure is objected to because of the inclusion of legal phraseology often used in patent claims such as "comprises" in line 2. Correction is required. See MPEP § 608.01(b).

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors, e.g., typographical, grammar, idiomatic, syntax and etc. Applicants' cooperations are requested in correcting any errors of which applicants may become aware in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a). The following claimed languages such as: "the outer chamber"; "The apparatus" and "the compressor" , recited in claim 16, all lack proper antecedent supports.
- b). The inconsistent used of terminology in the claims is improper. For examples:

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- 1). "The apparatus" in claim 16, as opposed to "A process" in claim 19; and
- 2). "input.. end"(line 4); as opposed to inlet end" (line7) in claim 19.
- c). Claim 16 fails to further limit the subject matter of claim 19, the claim from which it depends as there are no process steps recited to add to the process/method of claim 19.
- d). It is unclear whether the remaining liquid is in the first shell as recited in claim 19, line 9, or in the second shell as recited in claim 19 ,line 16.
- c). It is unclear how the step of raising the pressure of the vapor also can "direct the vapor to the inlet end of the second shell" as claimed in claim 19.

Claim 19 is objected to because of typographical error such as "a the" in line 8.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moss (4,597,835) or Lichtenthaeler (1,819,517) in view of Schnitzer (3,904,122).

Either Moss or Lichtenthaeler discloses substantially the process as claimed. The method/process of either of the above references differs from the claimed invention in that claim 19, for example, recites “.. applying a pressure to the purified vapor to raise the pressure of the purified vapor..” However, said step is conventionally done in the art as taught, e.g., by Schnitzer in col. 5, lines 60-67 through col. 6, lines 1-39. To incorporate the method/process taught by Schnitzer to the process of either one of the above references would have been obvious to one of ordinary skill in the art in view of Schnitzer’s suggestion at col. 6, lines 21-28. Claim 16 does not recites any process steps, and accordingly cannot be distinguished from the prior art in the process/method sense.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a). Fraser and Kuechler both disclose the concentric rotation of surfaces.
- b). McCutchen discloses a rotary vacuum distillation process and apparatus.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to V. Manoharan whose telephone number is (571) 272-1450.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Glenn Caldarola can be reached on (571) 272-1444.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


VIRGINIA MANOHARAN
PRIMARY EXAMINER
ART UNIT 133 1764